

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

Jesse Puckett,  
Petitioner,

vs.

Case No. 1:03-CV-31  
1:03-CV-76

Tim Brunsman,  
Respondent.

**ORDER**

This matter is before the Court on Magistrate Judge Hogan's Report and Recommendation filed October 28, 2005 (Doc. No. 28). Magistrate Judge Hogan recommended that Petitioner's petition for a writ of habeas pursuant to 28 U.S.C. § 2254 corpus be denied with prejudice with respect to Claims One through Three in Case No. 1:03-CV-31 and Claim Two in Case No. 1:03-CV-76. Magistrate Judge Hogan further recommended that the Court not issue a certificate of appealability on any of Petitioner's claim for relief. Finally, Magistrate Judge Hogan recommended that Petitioner not be granted leave to proceed *in forma pauperis* on appeal.

Proper notice has been given to the parties under 28 U.S.C. § 636(b)(1)(C), including notice that the parties would waive further appeal if they failed to file objections to the Report and Recommendation in a timely manner. See United States v. Walters, 638 F.2d 947 (6th Cir. 1981). As of the date of this Order, no objections to the Magistrate Judge's Report and Recommendation have been filed.

The Court has reviewed the Report and Recommendation *de novo* and hereby **ADOPTS** the Report and Recommendation *in toto*. Petitioner's petition for writ of habeas corpus is hereby **DISMISSED WITH PREJUDICE**, and this action is **CLOSED** on this Court's docket.

A certificate of appealability will not issue because petitioner has failed to

make a substantial showing of the denial of a constitutional right remediable in this proceeding. *See* 28 U.S.C. § 2253(c); Fed.R. App. P. 22(b).

This Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of this Order would not be taken in good faith for the purposes of granting Petitioner leave to appeal *in forma pauperis*. *See* Fed. R. App. P. 24(a); *Kincade v. Sparkman*, 117 F.3rd 949, 952 (6th Cir. 1997).

**IT IS SO ORDERED**

November 22, 2005

Date

s/Sandra S. Beckwith

Sandra S. Beckwith, Chief Judge  
United States District Judge